IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/07/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K.MISRA

WRIT PETITION No.9001 of 2002
AND
WMP.NOs.12198 & 14361OF 2002
and
WVMP.NOs.373 & 608 OF 2002

R.Ramsundar,
President,
Swami Vivekananda Vidyalayam
Higher Secondary School,
Vairichettipalayam,
Thuraiyur Taluk .. Petitioner

-Vs-

1. The Joint Director of Higher
Secondary Education,
College Road, Chennai-600 006.

2. The Chief Educational Officer,
Madurai Road, Trichy.

3. The District Educational Officer,
Musiri. .. Respondents

4. Dr.N.Rangarajan .. Intervenor

Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus for the reasons stated in therein.

For Petitioner : Mr.K.M.Vijayan,
Senior Counsel for
M/s.La & Law.

For Respondent-1 to 3 : Mr.S.P.Prabakaran
A.G.P.,

For Respondent-4 : Mr.M.Kalyanasundaram,
Senior Counsel for
Mr.G.Sethuraman.

:J U D G M E N T

The petitioner has prayed for issuing writ of certiorarified mandamus for quashing the order dated 8.3.2002 in proceedings Na.Ka.No.14552 /A4/2000 and forbearing the respondents from interfering with the powers of the educational agency.

2. The petitioner claims to be the President of Swami Vivekananda Vidayalayam Higher Secondary School, which was established in 1950 by late S.R. Nagi Reddiar, the grandfather of the petitioner. Undisputedly from 1950 till 1963, the grandfather of the petitioner was the Secretary and from 1963 to 1976, the father of the petitioner continued as the Secretary. It is claimed that after 1976, mother of the petitioner is functioning as the Secretary. In 1977, the intervenor (the paternal uncle of the present writ petitioner) was appointed as the Headmaster of the school. The latter filed

O.S.No.155 of 1997 for declaration that Management Committee had not been validly constituted. In Interim Application No.420 of 1997, the Civil court observed that the Secretary is at liberty to convene the School Committee.

3. Subsequently, another suit was filed by the same intervenor bearing O.S.No.327 of 1997 claiming that he was the President of the educational agency of the school. Both the suits are stated to be pending. On 15.5.1998, the intervenor had filed W.P.No.7220 of 1998 praying for a direction to appoint a Special Officer for the school. The said writ petition along with the connected writ petition were disposed of on 9.9.1998 with a direction to the Government to appoint a Special Officer. Said common order was challenged by the school in W.A. Nos.1263 and 1264 of 1998 and an order of status quo was passed. Thereafter the Chief Educational Officer has passed an order dated 24.3.1 999 according approval to the managing committee. On 22.12.1999, both the writ appeals were disposed of with the observation that there was no necessity to appoint any Special Officer as the matter was pending before the Civil Court and can be dealt with by the Civil Court. Thereafter the Chief Educational Officer passed an order dated 7.3.2 000 permitting the management to function as before. W.P.No.18673 of 2000 was filed by the present intervenor which was disposed of at the stage of admission on 7.11.2000 by directing that the representation regarding appointment of Special Officer should be considered. W. A.No.2236 of 2000 filed by the management was disposed of by the Division Bench by directing the authorities to consider the legality, propriety and tenability of such representation. On the basis of the representation and the direction in W.P.No.18673 of 2000, the Chief Educational Officer had passed an order dated 30.3.2001 for direct payment. W.P.No.6938 of 2001 was filed against such direction (In the meantime such writ petition has been disposed of by quashing such direction). During pendency of such writ petition, the present impugned order has been passed directing management of the school not to make any appointment as W.P.No.6938 of 2001 was still pending. The prayer of the writ petition is to quash such order and to give a further direction to the respondents not to interfere with the management of the school.

4. The narration of events clearly indicate that suits are pending

relating to management. However, the present management has been allowed to continue by the Chief Educational Officer on the basis of the observation made by the High Court on earlier occasion. The impugned order refers to order dated 30.3.2001 where under a direction had been made for direct payment. As already indicated, such a direction has been quashed by judgment dated 22.11.2002 in W.P.No.6938 of 2001.

5. The present impugned order has been passed on the basis of an earlier order which has been quashed in the meantime. The present impugned order has also been passed without giving any opportunity of hearing to the petitioner. The materials on record indicate that by virtue of various orders, the present petitioner has been allowed to function. Since the present impugned order has been passed without giving any opportunity of hearing and on the basis of some earlier direction which has been quashed in the meantime it would be appropriate to quash the present impugned order.

6. The question of approval relating to appointment is to be considered on the basis of the necessity of the school and the approved staffing pattern. If there is necessity for appointment, a de-facto management in charge of the school can take steps to appoint persons and such appointments need not be disapproved merely because there is some dispute relating to management.

7. In such view of the matter, the respondents 1 to 3 are directed to consider the question of approval of the persons in accordance with law. Subject to the aforesaid direction, the writ petition is allowed and the impugned order is quashed.

29-07-2003
Index : Yes
Internet : Yes

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To

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